

**The Bill Blackwood
Law Enforcement Management Institute of Texas**

Creation of a Social Media Policy for Law Enforcement Agencies

**A Leadership White Paper
Submitted in Partial Fulfillment
Required for Graduation from the
Leadership Command College**

**By
James Bettis**

**Longview Police Department
Longview, Texas
February 2017**

ABSTRACT

During the last two decades, technology advancements have had an impact on how law enforcement organizations operate. One of these technological advancements has been the evolution of the internet and the ability to communicate electronically. Twenty years ago, sitting at a computer, typing an email, and having it sent to the recipient almost instantly was a new and novel idea. Now a person can type their thoughts, feelings, and ideas from their phone or other portable device from virtually anywhere at any time. This is accomplished through social media. The use of social media has provided new challenges and opportunities law enforcement agencies. In order to mitigate the challenges and take advantage of the opportunities, agencies will need to create a social media policy. This policy will need to address how the agency is represented on social media. This includes who will be allowed to utilize social media on the agency's behalf as well as how it will be used for investigative and emergency purposes. The policy will also need to address employees' rights as they pertain to social media use, both on and off-duty.

TABLE OF CONTENTS

	Page
Abstract	
Introduction	1
Position	3
Counter Position	7
Recommendation	10
References	12

INTRODUCTION

Over the last 20 years, technology has changed how many organizations operate. This is very apparent in the field of law enforcement. As the social climate and public expectations change, law enforcement agencies can use advances in technology to their advantage. One form of technology that has advanced rapidly is the internet and the ability to communicate electronically. With the internet, society has seen the evolution of written communication go from “snail mail” to email and then internet blogs on web sites to instantaneous communication of 140 characters or less. This newest form of communication is called social media and comes in the form of typed short messages, posting of photos and videos, and the use of emoticons (symbols used to demonstrate facial expressions to emphasize an emotion or feeling).

An agency’s online presence now goes beyond a simple website; agencies need to have a social media presence. There are over 2,800 agencies in the United States that are having to learn to navigate the challenges and benefits of the evolving use of social media (Murnik, 2015). Social media has become a norm in today’s society. There are numerous social media platforms that include Facebook, Twitter, Instagram, LinkedIn, Pinterest, and most recently Periscope, just to name a few. According to the Pew Research Center (2015), 76% of all adults who access the internet use social media in some fashion. That is up from approximately 8% in February 2005, with Facebook being the number one platform being utilized by an estimated 72% of adult internet users. With this exponential growth, it is obvious that this trend is not stopping or slowing down in the near future. It has been reported that in June 2013, online users spent 20 billion minutes on Facebook per day (IACP, 2015). This fact indicates that

social media is a great avenue for communicating with the public. It is important for law enforcement agencies to have a social media presence due to the speed at which information can pass widely from one person to the next (Murnik, 2015).

With the advent of any new technology, procedure, or tool, there comes an opportunity to learn lessons, sometimes the hard way. Social media is being thoroughly integrated into people's lives and providing them the opportunity to share their thoughts anywhere at anytime, so the door is opened for others to find the thoughts inappropriate. This can create a problem for law enforcement employees should they be the author of the posts (Pettry, 2014). Law enforcement agencies will want to mitigate these issues to keep the agency from being viewed in a negative light. Social media also provides a forum for agencies to interact with the community and investigative opportunities that will require trained personnel operating under agency guidelines (Murnik, 2015). Social media is a mainstay in today's society and can be a useful tool for law enforcement; however, there is potential for abuses by employees that can negatively affect the employee and agency. Law enforcement agencies should create a comprehensive policy that guides agency employees in the effective use of social media. The policy will need to address who is allowed to utilize social media in representing the agency, as well as parameters on how social media can be used for investigative purposes. It will also need to provide guidance to employees on personal social media usage on and off-duty.

POSITION

Mark Zuckerberg (n.d.), the founder and CEO of Facebook stated, "By giving people the power to share, we're making the world more transparent" (p. 1). In the age

of social media and the 24-hour news cycle, the public expects open and transparent communication as quickly as possible. In order to keep pace with the ever increasing speed that information flows, law enforcement agencies must have an effective on-line presence through the agency website and social media outlets (Cameron, 2014).

Agencies will need to establish policies that protect the image of the department and control how the agency is viewed by the public it serves. A necessary element to the policy is to determine who within the agency maintains the social media sites to help prevent unauthorized agency sites from being created (Norwood, 2012). Typically, this task will be assigned to the public information officer (PIO) or public relations section of an agency. The policy can allow for public safety dispatch to post information in real time about events that are having an immediate impact on the public, such as locations of accidents that are blocking traffic.

Agency policy should dictate who, how, and when communication is shared through its social media accounts (Norwood, 2012). This will help prevent unauthorized information from being posted that could hurt the agency's image. Also, having clear guidelines about how information pertaining to current investigations will help prevent compromising information from being released. Agencies will have to make the decision if they will let individual units or sections post their activities through social media. It can be a very powerful community relations tool to allow school resource officers (SROs) to post some of their activities on social media. The SRO can post photos along with a description of classes that they are teaching or promote programs such as Police Explorers and Teen Safe Driver. The policy should also be framed where it can be easily adapted to any changes in technology and departmental

strategies (Norwood, 2012). Given all the possibilities of who and what can be posted, agencies need to set clear guidelines to ensure that the mission and values of the agency are upheld.

The law enforcement agency's comprehensive policy should also address employee usage of social media on and off-duty. First, the policy should make it clear that employees have no expectation of privacy when accessing personal social media accounts through agency owned computers, phones, servers, or email accounts (Albrecht, 2015). All content or internet traffic that takes place on or through agency equipment is captured and can be recovered by the agency's technology professionals, and the agency heads will have to decide if random monitoring will take place or only when an issue is brought to light. Without a policy, agencies will have hard time disciplining employees should their on and off-duty texting, emailing, or personal phone calls interfere with their work duties (Albrecht, 2015). Albrecht (2015) continued by stating, "imagine the liability your department would face if a copper was found to be texting his girlfriend on the way to a call in which he hit and killed somebody. The media and plaintiff's attorney would be all over that lapse in judgement" (p. 8).

Agencies should also educate their employees in the potential consequences of posting to social media sites off-duty. They need to be made aware that any posts that are made to social media accounts are not private, and civil and criminal defense attorneys will mine posts looking for information to discredit officers (Albrecht, 2015). Pettry (2014) stated that one of the first well-publicized cases where the arresting officer's online posts were used in court was *People v. Waters* (2009). The defense

attorneys presented posts from the officer's MySpace and Facebook accounts that were attributed to the acquittal of the most serious charge against Waters.

There should also be a clear understanding in the social media policy that employees are not allowed to post any information to their personal accounts that they obtained or have access to in their official capacity. An example of this would be an arresting officer posting on their Facebook account that they arrested the mayor's son for theft or a dispatching posting comments about the "stupid" people that they talked to during their shift. Agencies will also want to restrict the use of any departmental images of badges, patches, or other official logos on personal accounts. In short, employees should not have any information on their social media profiles that indicate that they work for the law enforcement agency. Supervisors within the agency need to also have the understanding that if they "like", "friend", or "follow" their subordinates on social media, they will need to enforce policy if they observe statements or photos posted that place the agency in a negative light (Donlon-Cotton, "Facebook," 2010). The policy will need to address if the supervisors or internal affairs should regularly check their employees pages or if it is only done when problems arise (Donlon-Cotton, "Tips," 2010). Agencies also need to make it clear that the policy is not intended to interfere with employees' freedom of speech and expression, but the agency does reserve the right to protect its public image. A comprehensive policy that is consistently enforced will protect the agency from potential violations of Title VII of the Civil Rights Act when disciplining employees who do not uphold the agency standards when posting on social media. (Shultz, Koehler, Philippe & Coronel, 2015).

Social media is a great avenue for law enforcement to communicate with the public. This can be anything from promoting community events to sharing stories of when officers go above and beyond the call of duty. Another great asset of social media is to share information rapidly that might aid investigations. In Cold Spring, Ohio, the police department posted information about a robbery suspect and his vehicle on the department's Facebook page. This information led to officers locating the vehicle and identifying the suspect who later turned himself in for the robbery (Scalf, 2015). To effectively post information related to investigations, a policy needs to address three areas: what information can be released, when it can be released, and under what circumstances it can be released. The PIO or person responsible for posting to social media should not take it upon themselves to decide what to post, especially when it comes to investigations that might be high profile or sensitive in nature. The investigators, their supervisor, and the appropriate member from the command staff should make the determination of what should be posted and when.

Through inappropriate posts, agency employees run the risk of exposing material information and damaging investigations as well as the possibility of harming public trust (Pettry, 2014). Along with posting information to solicit help in locating suspects, agencies can use social media networking to quickly pass information in locating missing persons. According to Kapko (2015), there are 1.44 billion monthly active Facebook users, and they are averaging 31.25 million posts per minute. Along the same line, there are 288 million monthly active Twitter users who collectively average 347,222 tweets per minute. Agencies with an a strong social media presence can

easily and quickly deliver important information to a large portion of the population without having to wait for the traditional news reporting cycle.

Many agencies will also allow investigators to create undercover social media accounts to view public pages and posts by suspects and their associates that may be material to an investigation (Spizman & Miller, 2012). SROs can also create undercover accounts and follow students on their campuses. Information obtained from these accounts can help the SRO head off problems on campus and aid in investigations. In both cases, agencies must have guidelines for investigators and SROs to follow to help ensure that no ethical and legal lines are crossed. Cameron (2014) stated that agencies also need to keep in mind that technology does not replace fundamental police work and the “computers don’t catch criminals, law enforcement officers do” (p. 39).

COUNTER POSITION

Law enforcement agency administrators will receive some push-back when implementing a comprehensive social media policy. The first argument that will be made by law enforcement employees will be that the policy violates their rights. The First Amendment of the United States Constitution states “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances” (U.S. Const. amend. I). Employees will argue that they have the right to say what they want, when they want on social media. The problem with social media is that it does provide people the ability to post photos and comments virtually at anytime, anywhere. Most

employees will agree that the policy concerning their on-duty behavior is acceptable given that the purpose of a department policy is to guide behavior on duty; however, some employees will try to reject the department's authority to reach into their personal lives. Legal standards regulating on-duty speech are clear, but standards for the regulation of off-duty speech can be a point of concern (Pettry, 2014).

In setting policy standards, agency administrators can rely on case law that has set precedence for a governmental agency's ability to regulate employee's off-duty speech. One of the earliest cases addressing this topic, long before the advent of social media, was the 1968 United State Supreme Court Case *Pickering v. Board of Education*. In *Pickering* (1968), a school teacher wrote a letter to a local newspaper critical of the school board. The board then fired Pickering which was later reversed in the Court's decision. Justice Marshall wrote in the opinion, "... absent proof of false statements knowingly or recklessly made by him, a teacher's exercise of his to speak on issues of public importance may not furnish the basis for his dismissal from emploment" (*Pickering v. Board of Education*, 1968, p. 4). This set the standard that if an employee's speech is a matter of public concern, then it is protected speech.

Another Supreme Court Case, *Connick v. Myers* (1983), added to the Pickering decision. Connick, an assistant district attorney, sent around a questionnaire concerning policies, morale, and feelings towards supervisors. Connick was subsequently fired. The court rejected the claim because the questionnaire primarily was about personal concern as opposed to a public concern, granting government employers the ability to address and manage its operations (Pettry, 2014). In 2006, the Supreme Court decided *Garcetti v Ceballos* (2006); the court went further in clarifying

that employers can restrict an employee's speech when they are speaking in their official capacity (Pettry, 2014). An agency, when deciding what speech they can regulate, should determine if the speech is a matter of public concern or private concern and if the employee was speaking as an agent of the government employer.

A significant case dealing with employee's conduct off-duty is the US Supreme Court case *City of San Diego v. Roe* (2004). In *Roe*, an officer sold sexually explicit videos of himself in a police uniform. Although the uniform was not his actual duty uniform, the city determined that he violated many policies and terminated him. The Court determined that the employer was justified in the termination since *Roe* clearly linked the videos he produced with his police work (Pettry, 2014). These cases all provide the framework and guidance that law enforcement agencies need in developing and enforcing policy while considering the employee's rights.

Another reason why an agency would want to consider not having a social media policy and presence is that it opens the agency up to unwanted criticism and negativity. Anyone can post on a agency's social media site, and this includes internet trolls. A troll or internet troll, as defined in the marketing website hubspot.com, is a person who is "known for creating controversy in an online setting. They typically hang out in forums, comment sections, and chat rooms with the intent of disrupting the conversation on a piece of content by providing commentary that aims to evoke a reaction" (Stec, 2015, T Section, para. 3). Agency employees could be tempted to fall into this trap and post an emotional reply that places the agency in a negative light. This could also cause morale issues for officers who are already facing intense scrutiny through traditional media.

Agencies can combat this negativity with a comprehensive policy that clearly lays out the guidelines in what can be posted. The social media trend is here to stay, and it is growing, with more and more people turning to social media to get information. Norwood (2012) stated, “social media gives law enforcement agencies the ability and the power to tell their own stories” (p. 30). Traditional media is very good at posting stories when an agency employee does something wrong; social media platforms allow for agencies to tell stories of the good and positive things that its employees engage in that is not regularly publicized. The agency’s social media policy should also clearly state the rules for posting or commenting on its page. An effective policy will also express what the agency feels to inappropriate posts or comments and a process for removing those posts. The policy will also address how the agency communicates to the poster why the post was removed (Norwood, 2012). This will promote transparency and help keep the agency from being seen as stifling freedom of speech.

RECOMMENDATION

The use of social media is growing and has become a standard feature in many people’s daily lives. Through social media, a law enforcement agency has an effective tool in communicating with the public it serves. Social media usage also brings new challenges to an agency. To navigate those challenges, agencies should develop guidelines for social media usage. Agencies need to set a policy to establish who maintains its social media presence. This person should be well versed in social media platforms, trained in what information can be shared and when it is the appropriate time to share the information. The agency policy will also need to address employee use of personal social media accounts. This will apply to on-duty use and off-duty use. The

policy will need to expressly remind employees that there is no expectation of privacy when agency equipment is used to access social media sites. Agencies will also need to insure the employees understand that conduct on social media that harms the agency's reputation can be grounds for discipline.

Social media also opens up new avenues for investigations. Agencies can share information over social media to aid in investigations. Investigators can setup fake accounts to gather intelligence on suspects and associates. Comprehensive policies will need to be in place to make sure that information harmful to the investigation is not released as well as setting guidelines to make sure fake accounts are not misused. Agency employees may feel that comprehensive policies will violate their right to freedom of speech; however, there are numerous US Supreme Court cases that allow government employers to restrict what employees post when the posts are harmful to the image and mission of the agency. Although social media opens the door to possible criticism and negativity, social media gives agencies an avenue to tell its own story. Social media permits agencies to reach out to citizens in a positive manner and allows for social interaction. Law enforcement agencies can benefit greatly with a strong social media presence that is guided by a comprehensive policy.

REFERENCES

- Albrecht, S. (2015, July). The hazards of social media. *Law and Order*, 63(7), p. 8.
- Cameron, S. (2014, November). Six tips to improve operations. *Law and Order*, 62(11), 36-39.
- City of San Diego v. Roe, 543 U. S. 77 (2004).
- Connick v. Myers, 461 U. S. 138 (1983).
- Donlon-Cotton, C. (2010, September). Tips for enforcing social networking policies. *Law and Order*, 58(9), 16-17.
- Donlon-Cotton, C. (2010, November). Facebook: Risks for the supervisor. *Law and Order*, 58(11), 12.
- International Association of Chiefs of Police. (n.d.). Fun facts. Retrieved from <http://www.iacpsocialmedia.org/Resources/FunFacts.aspx>
- Murnik, K. (2015, April). Why every department should have a facebook page. *Law and Order*, 63(4), 60-61.
- Norwood, B. T. (2012, June). Telling a story through social media. *The Police Chief*, 79(6), 30-34.
- People v. Waters, 62 A.D. 3d 915 (N.Y. App. Div. 2009).
- Petry, M. T. (2014, December 9). Social media: Legal challenges and pitfalls for law enforcement agencies. Retrieved from <https://leb.fbi.gov/2014/december/legal-digest-social-media-legal-challenges-and-pitfalls-for-law-enforcement>
- Pew Research Center. (n.d.). Social media trends. Retrieved from <http://www.pewresearch.org/data-trend/media-and-technology/social-networking-use/>

Pickering v. Board of Education, 391 U. S. 563 (1968).

Scalf, A. (2015, February 4). City adopts new social media policy. Retrieved from <http://www.cincinnati.com/story/news/local/campbellcounty/2015/02/04/city-adopts-new-social-media-policy/22899885/>

Shultz, M. D., Koehler, J. W., Philippe, T. W., & Coronel, R. S. (2015, March 22). Managing the Effects of Social Media in Organizations. *SAM Advanced Management Journal-Spring, 2*, 42-47.

Spizman, R. & Miller, M. (2012). Plugged-in policing: Student perceptions of law enforcement's use of social media. *Applied Psychology in Criminal Justice, 9*(2), 100-123.

Stec, C. (2015, August 24). Social media definitions: The ultimate glossary of terms you should know. Retrieved from <http://blog.hubspot.com/blog/tabid/6307/bid/6126/The-Ultimate-Glossary-120-Social-Media-Marketing-Terms-Explained.aspx> - T

U. S. Const. amend I.

Zuckerberg, M. (n.d.). Mark Zuckerberg quotes. Retrieved November 16, 2015, from http://www.brainyquote.com/quotes/authors/m/mark_zuckerberg.html